

**Summary:**

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**Federal Trade Commission Workshop:  
"Possible Anticompetitive Efforts  
to Restrict Competition on the Internet"  
October 9, 2002**

1-800 CONTACTS, headquartered in Draper, Utah, is the largest seller of replacement contact lenses to consumers through an Internet web site and a toll-free phone number.

We strongly support the Federal Trade Commission's efforts to understand the anticompetitive forces undermining competition on the Internet. In the contact lens industry, there are many instances where state laws and regulations cloaked as health measures stifle competition, increase prices for consumers, and compromise rather than promote ocular health.

1-800 CONTACTS respects the important role eye care professionals play in our health care system. We are not a substitute for personal eye care. We recognize that there are risks inherent in wearing contact lenses, and strongly support the retention of measures which legitimately protect consumer health. However, as an

investigation conducted by 32 state attorneys general revealed, these risks are *not* related to where a consumer purchases replacement lenses.

Indeed, perhaps the greatest threat to ocular health is caused by contact lens wearers failing to dispose of contact lenses frequently enough. The less expensive contact lenses are, and the easier they are to obtain, the more frequently wearers will change their lenses. Unfortunately, restrictive state laws can make contact lenses more expensive and more difficult for consumers to obtain, without providing any countervailing health benefit.

Why would states impose impediments to Internet and phone sales of contact lenses, especially when these barriers can threaten, rather than promote, consumer health? To answer this question, it helps to understand how the contact lens industry works. Originally, contact lenses were custom-made from rigid materials. As these so-called “hard” contacts were customized items, consumers were effectively limited to buying them from eye care professionals. Technological advances led to the introduction of “soft” disposable contacts in the late 1980s. Disposable soft lenses are standardized, mass-produced commodities.

As consumers began to increasingly choose mass-produced disposable lenses, sources other than eye care professionals – including pharmacies, mass merchandisers, and mail order companies-- began offering them for sale. However, while consumers have shifted from custom-made hard lenses which could come

only from an eye doctor's office to mass-produced disposable lenses available from a variety of sources, the regulatory system governing the marketing of lenses has become increasingly resistant to competition. In particular, despite the settlement of an action brought by 32 state attorneys general to end the anti-competitive activities of lens manufacturers and optometrists, some eye doctors and manufacturers continue to attempt to misuse state laws and regulations to avoid working with 1-800 CONTACTS. We will share some of the more egregious examples and categories of anti-competitive activities with the Commission, and our experience in fighting such measures.

Despite these problems, there is some reason to hope that the disparate interests which comprise the contact lens industry can work together for the benefit of consumers. Each day, a growing number of eye care providers work cooperatively with us. In California, state legislators, ophthalmologists, optometrists and consumer groups worked together to develop a regulatory system that protects consumer health and promotes competition. This passive verification system is similar to what we have been doing in California since 1998. In September, Governor Davis signed legislation that essentially codified this system.

Contact lens wearers need and deserve more competition for their replacement lens business. In the Workshop we will propose several important

steps that the Federal Trade Commission could take to promote competition in this area.